

Appl. No. 10/716,133
Atty. Docket No. CM2542CQ
Amdt. dated April 28, 2005
Reply to Office Action of March 28, 2005
Customer No. 27752

designated in the Office Action as Invention II. Claims 15-19 are drawn to this invention. However, Applicants make this election with traverse.

Claims 1-14 and 20 have been withdrawn from consideration by this amendment as being drawn to non-elected inventions.

DISTINCTION BETWEEN INVENTIONS I AND II:

The Office Action states that “[i]nventions II and I are related as product and process of use.” However, claims 1-14, identified in the Office Action as Invention I, do not pertain to a process for using the articles of Invention II. For example, claim 1 recites, in part, “[a] process for transferring from a surface of a transfer tool a sticky material having a peel force of at least 0.1 N/cm onto an article, series of articles, with reduced stringing.” Moreover, the claims which directly or indirectly depend from claim 1, i.e. 2-14, do not pertain to a process of using the articles of Invention I.

The MPEP provides that:

A process of making and a product made by the process can be shown to be distinct inventions if either or both of the following can be shown: (A) that the process as *claimed* is not an obvious process of making the product and the process as *claimed* can be used to make other and different products; or (B) that the product as *claimed* can be made by another and materially different process.

MPEP § 806.05(f).

The Office Action has failed to show that the claimed process is not an obvious process of making the product claimed and that the claimed process can be used to make other and different products. Similarly, the Office Action has failed to show that the claimed product can be made by another and materially different process. Consequently, Applicants traverse the restriction requirement of the Office Action between Inventions I and II and hereby request reconsideration and withdrawal of the restriction requirement based on the preceding arguments.

DISTINCTION BETWEEN INVENTIONS II AND III:

The Office Action states that “Inventions II and III are related as product and apparatus for use.” (Office Action page 3). The MPEP provides that “[t]he examiner

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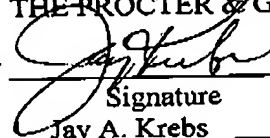
must show by way of example... (B) that the product as claimed can be made by another and materially different apparatus." MPEP § 806.05(g). The MPEP further states that "[t]he burden is on the examiner to provide an example, but the example need not be documented." *Id.*

The Office Action states that "[t]he inventions are patentably distinct because the product as claimed can be applied by another materially different apparatus such as a squeegee." (Office Action page 3)(emphasis added). However, the product, as claimed, is drawn to an absorbent article comprising a sticky material as recited, in part, in claims 15-19. Thus, while the sticky material may be able to be applied by squeegee, the Office Action does not assert that the absorbent article can be made by the squeegee. Thus, the burden has not been met by the Office Action. Consequently, Applicants traverse the restriction requirement of the Office Action between Inventions II and III and hereby request reconsideration and withdrawal of the restriction requirement based on the preceding arguments.

Respectfully submitted,

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